

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Brian E. Hancock,)	Civil Action No. 4:16-427-BHH
)	
Plaintiff,)	
)	
vs.)	ORDER AND OPINION
)	
Larry Brown, Chief of Police, and Captain)	
Bobby Melton,)	
)	
Defendants.)	
_____)	

Plaintiff, who is proceeding pro se and in forma pauperis, filed this action pursuant to 42 U.S.C. § 1983 alleging several violations of his constitutional rights. In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), the matter was referred to a United States Magistrate Judge for preliminary determinations.

On July 12, 2017, Magistrate Judge Thomas E. Rogers, III, issued a report and recommendation ("Report") outlining Plaintiff's claims and recommending that the Court grant Defendants' pending motion for summary judgment and dismiss this case in its entirety. (ECF No. 99.) Attached to the Magistrate Judge's Report was a notice advising Plaintiff of the right to file written objections to the Report within fourteen days of being served with a copy. (ECF No. 99-1.) Plaintiff filed no objections, and on August 2, 2017 the Court entered an Order adopting and incorporating the Report, granting summary judgment in Defendants' favor, and dismissing the case. (ECF No. 103.)

However, Plaintiff subsequently filed a notice of appeal claiming that he was denied the opportunity to submit objections due to contemporaneously being placed in a segregated incarceration unit and denied access to his personal property (presumably

including U.S. mail). (ECF No. 106.) The Fourth Circuit issued an Opinion vacating the dismissal and remanding the case to this Court for consideration of Hancock's request for an extension of time to file objections. (ECF No. 112.) On February 27, 2018, the Mandate was received, and this Court, on the same day, withdrew its Order ruling on the Report and its Judgment and granted Plaintiff an additional fourteen (14) days in which to file objections. (ECF Nos. 118 & 119.)

At the expiration of the extended time period in which to file objections, Plaintiff still had filed none. In an abundance of caution, the Court, on March 20, 2018, directed the Clerk of Court to mail an additional copy of the Report to Plaintiff, and granted Plaintiff and additional twenty-one (21) days in which to file objections. (ECF No. 123.) In the March 20, 2018 Text Order, the Court noted that, in the absence of extraordinary circumstances, no further extensions of time would be granted. (*Id.*) The twice-extended period in which to file objections has now expired again, and Plaintiff has not filed objections.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must

‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because no objections were filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds the Magistrate Judge’s recommendation to be proper and to evince no clear error, and agrees with the Magistrate Judge’s findings.

Accordingly, the Court hereby adopts and incorporates the Magistrate Judge’s Report (ECF No. 99) herein by specific reference. Defendants’ motion for summary judgment (ECF No. 91) is GRANTED and this case is dismissed.

IT IS SO ORDERED.

/s/Bruce H. Hendricks
United States District Judge

April 25, 2018
Charleston, South Carolina